

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

10/28/22 3:30 pm

CLERK

U.S. BANKRUPTCY  
COURT - WDPA

In re:	:	Case No.:	22-20324-GLT
	:	Chapter:	11
David A. Golupski	:	Related Dkt.	No. 49
Maureen Y. Golupski	:		
	:		
<i>Debtor(s).</i>	:		

-	:	Adv. No.:	22-02032-GLT
	:	Related Dkt.	Nos. 1 and 7
David A. Golupski	:		
Maureen Y. Golupski	:		
	:		
<i>Plaintiff(s)</i>	:	Date:	10/27/2022
	:	Time:	11:00
v.	:		
	:		
Newtek Small Business Finance, LLC.	:		
	:		
<i>Defendant(s)</i>	:		

**PROCEEDING MEMO**

**MATTER:**

Confirmation Hearing:

# 106 - Amended Ch.11 Small Business Subchapter V Plan dated 8/12/22

# 126 - Objection filed by the IRS

# 144 - Summary of Ballots

# 146 - Stipulation by Advance Business Capital, LLC

# 134 Motion to Direct Payment of Real Estate Brokers Commission filed by James Higgins

# 142 - Response filed by the Debtors

Final Pre-trial Conference on:

Case No. 22-20324-GLT

# 49 - Motion for Relief from Stay filed by Newtek Small Business Finance

# 62 Response filed by the Debtors

Adversary Case No. 22-02032-GLT

# 1 Complaint to Determine Secured Status Pursuant to 11 U.S.C. 506 and Objection to the Claim of Newtek Small Business Finance, LLC filed by the Debtors/Plaintiffs

# 7 - Answer filed by Newtek Small Business Finance, LLC

**APPEARANCES:**

Debtor:	Donald R. Calaiaro [Dave Golupski]
Trustee:	James S. Fellin
U.S. Trustee:	Jodi Hause
IRS:	Jill Locnikar
SWFL/Higgins:	Ryan Cooney
Newtek:	John Winter
Triumph:	Courtney Helbling
PNC:	Denise Carlon

**NOTES:** [12:00]

Calaiaro: Real estate brokers commission motion - Sale of Florida property fell through. Want to re-list the property for sale and terminate Mr. Lewis's rights under the sale contract and deem the deposit forfeited. Property had been damaged by the hurricane (\$1,800). Want to continue the motion to direct payment to Higgins out around 30 days.

Calaiaro: Stipulation with Triumph - adjusted Triumph's claim. Under the stipulation, with the dispute removed Triumph changes its position to be in favor of the plan.

Calaiaro: IRS objection - spoke to Locnikar about stipulation. Allow 14 days to file. Agreement should not impede the confirmation.

Carlton: PNC objections were technical in nature and had to do with closing which is now not happening. There is equity here, and in the best interests of everyone to have the property sold.

Hause: US trustee has not received proof of insurance for Florida property, residence, and auto.

Calaiaro: Will get that to US trustee by end of today.

Fellin: Is in support of the plan.

Court: How can we be sure that the Debtor's disposable income is being contributed to the plan? \$1,400 in student loans and two vehicles being used by Debtor's children. Court still considering these things.

Calaiaro: One of the children pays the car payments themselves. Children are principal obligors for the student loans. One child is still in college. Other child graduated 3-4 years ago, but is currently unemployed and living at home. The hylander car is driven by Debtor's wife. Debtor uses two cars, one is for his work out of state.

Continue motion with respect to Higgins out 30 days. Proposed form of order Higgins as real estate agent, under certification of counsel. Triumph stipulation approved. IRS stipulation will wait 14 days.. By end of week the debtor will produce insurance on Florida property. Within 2 weeks can file other things.

Aside from disposable income issue - appears to be feasible and proposed in good faith.

**OUTCOME:**

1) For the reasons stated on the record, the *Motion to Direct Payment of Real Estate Brokers Commission* [Dkt. No. 134] is continued to December 8, 2022. On or before November 10, 2022, Debtor shall file a proposed form of order to employ Higgins as the Debtor's real estate broker under certification of counsel. [Text Order].  
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2) For the reasons stated on the record, the *Motion for Relief from Stay filed by Newtek Small Business Finance* [Dkt. No. 49] is continued to November 22, 2022 at 10:30 a.m., and shall be denied as moot if the parties' settlement motion is approved. [Text Order]

3) The pretrial conference in Adv. Proc. No. 22-2032 is continued to November 22, 2022 at 10:30 a.m. and all pretrial deadlines are suspended pending the Court's consideration of the Debtor's settlement motion involving Newtek. [Text Order].

4) For the reasons stated on the record, the *Stipulation by Advance Business Capital, LLC* [Dkt. No. 146] is GRANTED. [HT to issue order at Dkt. No. 146].

5) On or before November 10, 2022, the Debtor and Internal Revenue Service shall submit a stipulation under certification of counsel that resolves the pending *Objection filed by the IRS* [Dkt. No. 126]. [Text Order].

6) On or before October 31, 2022, Debtor shall provide proof of insurance to the Office of the United States Trustee for his automobiles and his real estate in Florida and Pennsylvania. [Text Order]

7) To the extent necessary, on or before November 10, 2022, Debtor shall file: (a) amended Schedules I and J; and (b) an amended ballot summary. [Text Order]

8) For the reasons stated on the record and subject to submission of written stipulations, the confirmation hearing is provisionally concluded. To the extent Debtor seeks to submit any additional documents to address the issue of whether all of the Debtor's projected disposable income is contributed to the plan, he shall produce such information on or before November 10, 2022. In the absence of any additional information or a request for a continued confirmation hearing, the Court will enter a written confirmation order based on the matters currently of record. [Text Order]

**DATED:** 10/27/2022